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Paper No. 13

In re Application of
William Vreeland *et al*
Application No. 09/320,822
Filed: May 27, 1999
Attorney Docket No. 6579-371

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: DECISION ON SECOND
: RENEWED PETITION
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This is a decision on the second renewed petition filed on April 5, 2004 by which petitioners again request withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated January 6, 2000. The second renewed petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The second renewed petition is granted.

On July 22, 2003, a decision was mailed dismissing a renewed petition that had been filed on June 17, 2003. The renewed petition was dismissed because it was not accompanied by a proper terminal disclaimer. On February 12, 2004, a memorandum clarifying terminal disclaimer practice in addressing untimely petitions to withdraw a holding of abandonment was promulgated. That memorandum abrogated the requirement for a terminal disclaimer to be filed in certain applications, and this application no longer is subject to the requirement for a terminal disclaimer as a prerequisite to the grant of **the instant second renewed petition** to withdraw the holding of abandonment. The memorandum is premised on the fact that in certain applications, a delay in filing a petition to withdraw a holding of abandonment will automatically reduce any patent term adjustment. It appears that this application falls in that category **in this instance**, since the application was filed after June 8, 1995 but prior to May 29, 2000 **and** the holding of abandonment did not involve a period during appellate review by the Board of Patent Appeals and Interferences, or an interference proceeding, or a period in which the application was suspended due to a secrecy order. Therefore, the terminal disclaimer accompanying the petition will not be recorded, and the second renewed petition is accepted as timely filed notwithstanding that it was filed more than two months after the date of the July 22, 2003 Decision.

A review of the material filed in support of the second renewed petition shows that a Continued Prosecution Application (CPA) was in fact received in the Office on July 5, 2000 together with a petition for a three month extension of time and the fees for the CPA and extension. Therefore, this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner to:

1. Enter the CPA filed on July 5, 2000 and the concurrently filed extension of time. However, the correspondence address will **not** be changed as requested in the CPA papers in view of paper Nos. 10 and 11 already of record. No fees will be charged because they have already been paid
2. Endorse the terminal disclaimer filed on April 5, 2004 into the record as "not entered", and refund the \$110.00 fee tendered with the disclaimer.

3. Forward the application to the examiner for action on the CPA filed on July 5, 2000.

PETITION GRANTED.



E. Rollins-Cross, Director
Technology Center 3700

Richard R. Michaud
McCormick, Paulding & Hubber
CityPlace II
185 Asylum Street
Hartford, CT 06103-3402